



PATENT APPLICATION

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the application of:

Attorney Docket No.: 3364.31US08

Hinz

Confirmation No.: 5651

Application No.: 10/715,912

Examiner: Lamm, M

Filed: November 18, 2003

Group Art Unit: 1617

For: COMPREHENSIVE PHARMACOLOGIC THERAPY FOR TREATMENT OF
OBESITY

PETITION REQUESTING WITHDRAWAL OF RECORDED TERMINAL DISCLAIMER
UNDER 37 CFR 1.182

Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

This Petition is made in accordance with 37 C.F.R. §§ 1.182 and MPEP § 1490 (VII)(A) requesting withdrawal of the recorded terminal disclaimer filed on October 13, 2004 in response to the Office Action mailed July 16, 2004.

The July 16, 2004 Office Action rejected claims 38-44, renumbered per rule 1.121 to 29-35, "under the judicially created nonstatutory double patenting doctrine of obviousness-type double patenting as being unpatentable over claim 6 of U.S. Patent No. 6660772." The July 16, 2004 Office Action also indicated "A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b)." As a result of the July 16, 2004 Office Action, Applicant's authorized representative filed an October 13, 2004 response with a terminal disclaimer to obviate double patenting rejection over U.S. Patent No. 6,660,772.

U.S. Patent No. 6,660,772, which was first referenced in the July 16, 2004 Office Action and then subsequently referenced in Applicant's October 13, 2004 response, is entitled "Use of 2-amino-1-(4-hydroxy-2-methanesulfonamidophenyl)ethanol for Treating Urinary Incontinence" and was filed on January 30, 2002 with the inventors and assignee listed to be:

Inventors: **Pouzet; Pascale** (Biberach, DE); **Esser; Franz** (Ingelheim, DE);
Kitagawa; Hisato (Osaka, JP); **Ishiguro; Naoki** (Osaka, JP);
Muramatsu; Ikunobu (Fukui, JP)

Assignee: **Boehringer Ingelheim Pharma KG** (Ingelheim, DE)

A copy of U.S. Patent No. 6,660,772 is enclosed with this petition.

As shown from the foregoing, **U.S. Patent No. 6,660,772** does not list Applicant Martin C. Hinz as either the inventor or the assignee. Moreover, Applicant Martin C. Hinz does not own or claim any interest in U.S. Patent No. 6,660,772.

Instead, Applicant Martin C. Hinz is the inventor and 100 percent owner of **U.S. Patent No. 6,660,777**, which the above referenced application is a continuation of and which Applicant believes the Examiner intended to reference in the July 16, 2004 Office Action. A copy of U.S. Patent No. 6,660,777 is enclosed with this petition. It is believed that because of the similarity between the numbers of U.S. Patent No. 6,660,772 listed in the July 16, 2004 Office Action and Applicant's U.S. Patent No. 6,660,777, that Applicant's prior authorized representative mistakenly and inadvertently perpetuated the Examiner's error into the subsequent October 13, 2004 terminal disclaimer in response to the July 16, 2004 Office Action.

Because of the inadvertent erroneous reference to U.S. Patent No. 6,660,772 in the October 13, 2004 terminal disclaimer, Applicant's terminal disclaimer should be withdrawn from the record under 37 C.F.R. § 1.182. A check in the amount of \$400.00, the fee set forth in

Section 1.17(f) pursuant to Section § 1.182 and MPEP § 1490(VII)(A), is attached hereto. The Commissioner is authorized to charge Deposit Account No. 16-0631 for any underpayments, overpayments or additionally required fees.

Because the erroneous reference to U.S. Patent No. 6,660,772 in the terminal disclaimer initiated from the July 16, 2004 Office Action, Applicant respectfully requests a refund of the enclosed petition fee.

The undersigned is an attorney or agent of record.

Respectfully submitted,



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Please grant any extension of time necessary for entry; charge any fee due to Deposit Account No. 16-0631.

CERTIFICATE OF MAILING

I hereby certify that this document is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on

Date of Deposit

2/8/06


Brian L. Stender